

Rockport Board of Appeals
July 29, 2014
7:30 P.M.
Rockport Public Library
The Brenner Room
17 School Street, Rockport, MA

- 1) Call to order at 7:30 P.M. Members present Alan Battistelli (Chairing), Tacy D. San Antonio, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees and Michael Bace. Joyce Fossa is absent.
- 2) Hearing of Michael McKinnell for a special permit and/or variance to construct a 4 foot 2 inch by 7 foot 6 inch addition to the first floor and a 19 foot 11 ½ inch by 7 foot 6 inch addition to the second floor on an existing nonconforming residence at 9 Phillips Avenue, Rockport.
 - a) Opened 7:30 P.M. Closed 7:35 P.M.
 - b) Members of the Board sitting are Alan Battistelli (Presiding), Charles W. Christopher, Tacy San Antonio, John N. Rees and Frederick Frithsen.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Michael McKinnell, 9 Phillips Avenue, displayed where the proposed house gable will be on the second floor and a small part of the first floor encroaching into the setback.
 - e) John N. Rees asked if the setbacks are staying the same and was answered that small amount over toward the street.
 - f) No audience participation.
- 3) Approval of Minutes
 - a) Peter Bergholtz moved to approve the June 24, 2014 Minutes as presented. Lars-Erik Wiberg seconded and they passed unanimously with Alan Battistelli, Tacy D. San Antonio, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees and Michael Bace voting.
 - b) Peter Bergholtz moved to approve the May 27, 2014 ZA Minutes as presented. John N. Rees seconded and they passed unanimously with Alan Battistelli, Tacy D. San Antonio, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees and Michael Bace voting.
- 4) Old Business: Electronic application and meeting process.
 - a) Peter Bergholtz reported that the new computer has been ordered for the Board.
- 5) Hearing of Eric Hutchins and Julia McMahon for a special permit and/or a variance to construct a ground mounted solar electric array at 45 Pooles Lane, Rockport.
 - a) Opened 7:45 P.M. Closed 7:53 P.M.
 - b) Members of the Board sitting are Alan Battistelli (Presiding), Peter Bergholtz, Charles W. Christopher, Lars-Erik Wiberg and Michael Bace.
 - c) Materials presented: general plan, site plan, elevations and photographs.
 - d) Eric Hutchins of 45 Poole's Lane and Jason Tuttle of ReVision Energy, 7 Commercial Drive, Brentwood, NH, displayed materials to the Board.
 - i) Property has a 2,000-foot driveway. The construction will not be able to be seen from any public trail or road.
 - ii) The roof of the home is situated in the wrong direction to be used so they are planning a ground construction.
 - iii) It will be 15-feet from the greenbelt and about 15 feet from the garage.

- iv) The array is about 12-feet tall and a grid tied system.
- v) The Bylaw doesn't address ground arrays.
- e) Peter Bergholtz stated that the Board may grant a Special Permit for alternate energy.
- f) No audience participation.
- 6) New Business:
 - a) Request for an extension from Kathleen Star on Special Permit #130506 at 8 Parker Street, Rockport dated July 15, 2013 to fall of 2015.
 - i) Peter Bergholtz moved to extend the Special Permit to August of 2015 and John N. Rees seconded. It passed unanimously with Peter Bergholtz, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace voting.
 - ii) A letter will be sent to applicant.
 - b) Request for an extension by Christian Jones at 3-5 Clark Avenue, Rockport.
 - i) Alan Battistelli moved to extend the Permit for another year and Charles W. Christopher seconded. It passed unanimously with Charles W. Christopher, John N. Rees, Alan Battistelli, Frederick Frithsen and Michael Bace voting.
 - c) Request for an extension on the Petition of James and Carmen Beaton Case #130405 at 43 Granite Street, Rockport dated July 22, 2013 if necessary for another year.
 - i) Robert Visnick Attorney, 11 School Street represented the petitioners.
 - ii) Mr. Visnick stated that the case was still in Land Court and the clock on the Special Permit only starts after the decision is filed and the case is out of court.
 - iii) The Board agreed that this is certainly the case.
 - d) Discussion of CAT Co. Project at Granite Street Chapter 91 and relevant zoning pertaining to that property.
 - i) Charles W. Christopher attended a public meeting on this issue.
 - ii) Robert Visnick, 11 School Street, Attorney for the CAT Co. is present.
 - iii) The Board is interested in seeing something done with this property.
 - iv) Charles W. Christopher mentioned that variances and special permits were issued to previous applicant and that conditions were part of the decision.
 - v) Peter Bergholtz stated the decisions will expire in this fall.
 - vi) Alan Battistelli said that the applicant has stated that he doesn't need a Chapter 91 and the Board has no standing on this.
 - vii) Peter Bergholtz stated that the machine shop might need a Special Permit.
 - viii) Charles W. Christopher said that any major changes would need to come before the Board.
 - ix) Alan Battistelli said let's see what happens.
- 7) Hearing of James Coats for a special permit and/or variance to construct a 13 foot 10 inch by 26 foot 7 inch deck on existing nonconforming granite walled garage foundation along with an attached staircase at 157 Granite Street, Rockport.
 - a) Opened 8:00 P.M. Closed 8:07 P.M.
 - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and John N. Rees.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) James Coats, 157 Granite Street, stated that:
 - i) The Blake property was changed to condos with a garage in the back built of stone.
 - ii) The plan is to build a deck on the garage walls.

- iii) The church (Pigeon Cove Chapel) has been informed of the plans and has submitted a letter agreeing to the construction that has been submitted for the file.
 - iv) A six foot latticed fence will be built to buffer the sound to the church but not obstruct the views.
 - v) A staircase will be built leading into the garden.
 - vi) A letter from the other condo owners agreeing to the plans was submitted and stamped in.
 - e) Peter Bergholtz observed that this is just an intensification of non-conformity. It will be about 7 feet from the Chapel.
 - f) A Special Permit is needed.
 - g) No audience participation.
- 8) Hearing of Patricia Fox, Trustee of the Bullfinch House Realty Trust for a variance and/or special permit to reestablish the use as an inn from a two-family home at 96 Granite Street, Rockport.
- a) Opened 8:15 P.M. Closed 8:23 P.M.
 - b) Members of the Board sitting are Alan Battistelli (presiding), Tacy San Antonio, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Attorney Robert Visnick, 11 School Street, represented the petitioner.
 - i) Petitioner wishes to reestablish the home's prior use as an inn. It was previously an inn from 1952 till about 3-31/2 years ago.
 - ii) The owner was caring for her father and unable to maintain it as an inn.
 - iii) Robert Ellis spoke in support of this for Michael Rasseo owner of the Yankee Clipper. The plan is to reunite this to the Yankee Clipper.
 - iv) It has been used for the last 3 1/2 years as a two family home.
 - v) The hardship for a Special Permit is a financial one.
 - vi) It would be a benefit to the town as the town is losing inns and this lessens the character of the town.
 - vii) John N. Rees asked how long it was an inn and was answered from 1952 until about 4 years ago.
 - e) Zenas Zeppala, 92 Granite Street, spoke in support of the petitioner's plans.
- 9) Hearing of William T. Ruhl for a special permit and/or variance to demolish an existing nonconforming dwelling and to construct a new building on the same footprint with a new 13 foot by 32-foot addition at 53 Marmion Way, Rockport.
- a) Opened 8:35 P.M. Closed 8:51 P.M.
 - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, John N. Rees and Michael Bace.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) William Ruhl, 53 Marmion Way, spoke about the proposed plans.
 - i) They plan to raise the existing house to meet FEMA regulations.
 - ii) Under Article ID2 there is no change of use.
 - iii) Not making non-conformance worse.
 - iv) No dwelling within 10 feet of structure.
 - v) Received Conservation Commission approval about 2 weeks ago. Designed to be as storm proof as possible.
 - vi) Lot is non-conforming as part of structure is below flood line.

- vii) Previous permit was given to build on the lot and structure is 7 to 9% coverage that is below maximum allowed.
- viii) Enlargement of house needs a Special Permit as it is a substantial change in building.
- ix) No audience participation.

10) Discussion of Hearings

- a) Patricia Fox, Trustee of the Bullfinch House Realty Trust
 - i) Discussion of whether a Variance or Special Permit is needed.
 - ii) The building is structured as an inn and not returning the to the intended use would be a hardship.
 - iii) Decided a Special Permit would apply by extending a non-conforming use.
 - iv) Michael Bace moved to grant a Special Permit and Tacy San Antonio seconded.
 - v) It passed unanimously with Alan Battistelli, Tacy San Antonio, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace voting.
- b) Michael McKinnell
 - i) Frederick Frithsen moved to grant petition and seconded by Tacy San Antonio.
 - ii) Passed unanimously with Alan Battistelli, Charles W. Christopher, Tacy San Antonio, John N. Rees and Frederick Frithsen voting.
- c) Eric Hutchins and Julia McMahon
 - i) Michael Bace moved to grant petition and Peter Bergholtz seconded.
 - ii) It passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Lars-Erik Wiberg and Michael Bace voting.
- d) James Coats
 - i) Peter Bergholtz remarked that the church is close and they are in favor of the plans.
 - ii) Charles W. Christopher wondered out loud if perhaps some conditions should be attached.
 - iii) Peter Bergholtz moved to approve and John N. Rees seconded.
 - iv) It passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and John N. Rees voting.
- e) William T. Ruhl
 - i) Peter Bergholtz moved to approve the Special Permit under the coastal flood plain district and Charles W. Christopher seconded.
 - ii) It passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, John N. Rees and Michael Bace voting.

11) Next Possible Meeting August 26, 2014

- 12) Motion to adjourn made by Peter Bergholtz and seconded by Michael Bace. Passed unanimously with Alan Battistelli, Tacy D. San Antonio, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees and Michael Bace voting.
Adjournment at 8:55 P.M.